

## **Board Administration and Regulatory Coordination Unit**

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### **Division 3. Air Resources Board**

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### **Chapter 1. Air Resources Board**

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### **Subchapter 1.25. Administrative Procedures--Hearings**

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### **Article 2. Administrative Hearing Procedures for Petitions for Review of Executive Officer Decisions**

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### **Subarticle 2. Hearing Officers**

#### **§ 60055.12. Disqualification.**

(a) The hearing officer or a member of the state board shall disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing.

(b) A hearing officer may not hear any case in which he or she has previously served as an investigator, prosecutor, or advocate.

(c) Any party may request the disqualification of a hearing officer or member of the state board by filing an affidavit or declaration under penalty of perjury. A request for the disqualification of a hearing officer must be made no later than five days prior to the commencement of a prehearing conference or first day of hearing on the merits, whichever is earlier. A request for the disqualification of a member of the state board must be made no later than five days prior to the state board's consideration of the recommended decision. The affidavit or declaration must state with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. Where the request for disqualification concerns a member of the state board, the issue shall be determined by the other members of the board. Where the request concerns the hearing officer, the issue shall be determined by the hearing officer.

NOTE: Authority cited: Sections 39600 and 39601, Health and Safety Code. Reference: *Mathews v. Eldridge*, 424 U.S. 319 (1976); Section 43105, Health and Safety Code; and Sections 11425.40 and 11512, Government Code.

#### **REFERENCE**